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TRANSCRIPT OF PROCEEDINGS

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

IN THE MATTER OF:

MM DOCKET NO. 93-156

TRINITY CHRISTIAN CENTER OF
SANTA ANA, INC., d/b/a
TRINITY BROADCASTING NETWORK
and
GLENDALE BROADCASTING COMPANY

Monroe, Georgia

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JUN 16 1994

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

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FREE STATE REPORTING, INC.
Court Reporting Depositions
D.C. Area (301) 261-1902
Balt. & Annap. (410) 974-0947

Before the
FEDERAL COMMUNICATIONS COMMISSION
 Washington, D.C. 20554

-----)
 In Re Applications of)
)
 TRINITY CHRISTIAN CENTER OF)
 SANTA ANA, INC., d/b/a)
 TRINITY BROADCASTING NETWORK)

For Renewal of License)
 of Station WHSG (TV))
 Monroe, Georgia)

and)

GLENDAL E BROADCASTING COMPANY)

For Construction Permit)
 Monroe, Georgia)
 -----)

MM DOCKET NO. 93-156

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JUN 16 1994

**FEDERAL COMMUNICATIONS COMMISSION
 OFFICE OF SECRETARY**

The above-entitled matter came on for hearing pursuant to Notice before Judge Joseph Chachkin, Administrative Law Judge, at 2000 L Street, N.W., Washington, D.C., 20554, in Courtroom No. 3, on Tuesday, May 17, 1994, at 10:00 a.m.

APPEARANCES:

On behalf of Trinity Broadcasting Network:

JOSEPH DUNNE, Esquire
 COLBY M. MAY, Esquire
 May & Dunne, Chartered
 1000 Thomas Jefferson St., Suite 520
 Washington, D.C. 20007

On behalf of Glendale Broadcasting Company:

LEWIS COHEN, Esquire
 JOHN J. SCHAUBLE, Esquire
 Cohen and Berfield, P.C.
 1129 20th Street, Suite 507
 Washington, D.C. 20036

1 APPEARANCES (Continued):

2 On behalf of Chief, Mass Media Bureau:

3 ROBERT ZAUNER, Esquire
4 GARY P. SCHONMAN, Esquire
5 Mass Media Bureau
6 Federal Communications Commission
7 Washington, D.C. 20554
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P R O C E E D I N G S

(10:00 a.m.)

JUDGE CHACHKIN: This proceeding concerns an application renewal of license of Station WHSG in Monroe, Georgia, which was filed by Trinity Christian Center of Santa Ana, Inc., doing business as Trinity Broadcasting Network, and an application for the same facility filed by Glendale Broadcasting Company.

May I have the appearance on behalf of the Parties? On behalf of Trinity?

MR. MAY: Colby M. May, Your Honor, and Joseph E. Dunne, III.

JUDGE CHACHKIN: On behalf of Glendale Broadcasting Company?

MR. SCHAUBLE: Good morning, Your Honor, John J. Schauble and Lewis A. Cohen of Cohen and Berfield, P.C.

JUDGE CHACHKIN: And on behalf of the Chief, Mass Media Bureau?

MR. SCHONMAN: Robert A. Zauner and Gary Schonman.

JUDGE CHACHKIN: All right. Are there any preliminary statements before we begin taking testimony?

MR. SCHAUBLE: Yes, Your Honor. There are a couple preliminary matters.

JUDGE CHACHKIN: Preliminary matters, I should say.

MR. SCHAUBLE: First of all, Your Honor, the Parties have reached several agreements and stipulations that will

1 make it unnecessary for the Parties to call certain witnesses
2 for cross-examination. And to describe these agreements:

3 With respect to Trinity witnesses Lindee Connelly
4 and Scott Jackson, the Parties have reached stipulations which
5 would be in lieu of cross-examination and the stipulations
6 would be in addition to their direct case exhibits, which are
7 Trinity Exhibits 32 and 33.

8 With respect to Glendale witnesses in the case of
9 John Allen and Gregory Daly, the Parties have agreed upon
10 Joint exhibits which would in lieu of the direct case exhibits
11 Glendale exchanged, would be -- which would be Glendale
12 Exhibits 3 and 4, and these, these are -- these new exhibits
13 would come in as Joint exhibits.

14 And with respect to George Gardner, who is called
15 for cross-examination by Trinity, Trinity has agreed to the
16 admission into evidence of Glendale Exhibit 2 and the Parties
17 have also agreed on an additional Joint exhibit of testimony
18 from Mr. Gardner concerning the short-spacing issue specified
19 against Glendale.

20 With your permission, Your Honor, I'd like to give
21 you a copy of the Joint exhibits which the Parties have agreed
22 upon.

23 JUDGE CHACHKIN: What is the Joint Exhibit 1?

24 MR. MAY: The Joint Exhibit 1, Your Honor, is the
25 stipulated Diversification and Mass Media Showings of the

1 Trinity Broadcasting Network. Those -- that document was
2 circulated at the time of the exchange, and so all Parties
3 have it already.

4 JUDGE CHACHKIN: Do I have a copy of it too?

5 MR. MAY: Yes, sir, Your Honor.

6 JUDGE CHACHKIN: All right. So, I understand from
7 Mr. Schauble this is coming in in addition to the exhibits
8 themselves, is that correct, in each instance? This --

9 MR. SCHAUBLE: That --

10 JUDGE CHACHKIN: Is this a substitute for the
11 exhibits or what?

12 MR. SCHAUBLE: In, in the case of Mr. Connelly --
13 Ms. Connelly and Mr. Jackson, Your Honor, it's in addition to.

14 JUDGE CHACHKIN: In addition to. All right.

15 MR. SCHAUBLE: In the case of Mr. Allen and Mr.
16 Daly, it's in lieu of --

17 JUDGE CHACHKIN: Oh, all right.

18 MR. SCHAUBLE: -- the exhibits, which would be --
19 so, Glendale -- what was exchanged as Glendale Exhibit 3 and 4
20 will not be offered.

21 JUDGE CHACHKIN: All right.

22 MR. SCHAUBLE: And one other preliminary matter,
23 Your Honor. As was reported to Your Honor yesterday with
24 respect to our witness, John J. Mullaney, his father is very
25 seriously ill, suffered a stroke recently. And I just want to

1 give you an update on his -- on, on that situation, that Mr.
2 Mullaney's father is still in the hospital gravely ill. It --
3 there is a possibility that he may die in a matter of hours or
4 days. We, we don't really know at this point. The Parties
5 have had discussions concerning a possible stipulation that
6 may make his, his testimony unnecessary, but we're -- we
7 haven't reached such a stipulation yet as of this time.

8 JUDGE CHACHKIN: All right. So, we have, I gather,
9 we have three witnesses of Trinity's, Mr. Randy Mullinax,
10 Harvey Budd, and Kevin T. Fisher?

11 MR. SCHAUBLE: That's correct, Your Honor.

12 MR. MAY: Yes, sir.

13 JUDGE CHACHKIN: Those are the other only witnesses
14 in addition to Mr. Mullaney, and his status is, is not clear
15 at this time, whether we're going to have a stipulation or
16 whether he's going to testify.

17 All right. Any, any other preliminary matters to be
18 taken up?

19 How do the Parties want to proceed? Do we want to
20 proceed first with the comparative showing of Trinity or are
21 we going to deal with the issues against Glendale?

22 MR. MAY: Understanding, Your Honor, is we would go
23 by docket order and we first hit the comparative.

24 JUDGE CHACHKIN: All right.

25 MR. SCHAUBLE: I have no objection to that, Your

1 Honor.

2 JUDGE CHACHKIN: Now, as far as these joint exhib-
3 its, I assume this will be offered when we get to the, the
4 issues against Glendale? Is that --

5 MR. SCHAUBLE: Your Honor, maybe the easiest is to
6 take those up after Trinity and Glendale have exchanged their
7 respective exhibits, because there are some exhibits that
8 relate to the renewal expectancy and some that relate to the
9 Glendale issues.

10 JUDGE CHACHKIN: All right. All right. Let's
11 proceed then. Mr. May?

12 MR. MAY: Your Honor, my colleague Mr. Dunne is
13 going to present to the Court the comparative case for Trinity
14 and the arguments on admission.

15 JUDGE CHACHKIN: All right.

16 MR. DUNNE: Thank you, Your Honor. Your Honor, let
17 the record, record reflect that I've already handed the Court
18 Reporter an original and one copy of what has been exchanged
19 as Trinity Exhibits 1 through 36, and at this point I would
20 ask that the following exhibits be marked for identification:

21 Trinity Exhibit 1, entitled the "Declaration of
22 Theodore Baehr." That's four pages with a supporting Declara-
23 tion, with a total of five pages.

24 Trinity Exhibit 2, the "Verified Statement of
25 Support for the Renewal Grant of WHSG-TV, Monroe, Georgia,"

1 executed by Marie Bell. It's a Verified Statement of one
2 page.

3 To save our time, Your Honor, the rest of the veri-
4 fied statements, I'll just refer to as the "Verified
5 Statements of..." --

6 JUDGE CHACHKIN: All right.

7 MR. DUNNE: -- with the signatore. Trinity Exhibit
8 3 is the "Verified Statements of Finee Bishop." It's veri-
9 fied, consists of one page.

10 Trinity Exhibit 4 is the "Verified Statement of
11 Karala L. Boynton."

12 JUDGE CHACHKIN: That's K A R A L A?

13 MR. DUNNE: Correct, Your Honor. Consists of one
14 page.

15 Trinity Exhibit 5 is the "Declaration of Ruth Mayo
16 Bray," consisting of four pages with a supporting Declaration
17 for a total of five pages.

18 Trinity Exhibit 6 is the "Declaration of Philip
19 Jerry Bray," consisting of five pages and a supporting Decla-
20 ration for a total of six pages.

21 Trinity Exhibit 8 -- excuse me, 7.

22 JUDGE CHACHKIN: Seven.

23 MR. DUNNE: I'm sorry. Trinity Exhibit 7 is the
24 "Verified Statement of Robert G. Brown," consisting of one
25 page, a Verified Statement.

1 Trinity Exhibit 8 is the "Declaration of Jeanette L.
2 Brown," consisting of seven pages with a supporting Declara-
3 tion for a total of eight pages.

4 Trinity Exhibit 9 is the "Declaration of Judith
5 A..." -- excuse me -- "...Judith A. Burns," consisting of two
6 pages with a supporting Declaration for a total of three
7 pages.

8 Trinity Exhibit 10 is the "Declaration of Brian
9 Burns" of two pages with a supporting Declaration for a total
10 of three pages.

11 Trinity Exhibit 11 is the "Verified Statement of
12 Bernice Clure," a Verified Statement of one page.

13 Trinity Exhibit 12 is the "Verified Statement of
14 Laverne Crawford." It's a Verified Statement of one page.

15 Trinity Exhibit 13 is the "Declaration of Ronald A.
16 Crews," consisting of three pages with a supporting Declara-
17 tion for a total of four pages.

18 Trinity Exhibit 14 is the "Declaration of Robert L.
19 Crutchfield," consisting of, of two pages with a supporting
20 Declaration for a total of three pages.

21 Trinity Exhibit 15 is the "Verified Statement of
22 Jerry A. Dasch," a Verified Statement of one page.

23 Trinity Exhibit 16 is the "Declaration of Creflow,
24 Creflow Dollar," consisting of three pages and a supporting
25 Declaration for a total of four pages.

1 Trinity Exhibit 17 is the "Verified Statement of K.,
2 or Kish Debra Douglas." It's a Verified Statement of one
3 page.

4 Trinity Exhibit 18 is the "Verified Statement of
5 Sheila M. Hollimon," a Verified Statement of one page.

6 Trinity Exhibit 19 is the "Declaration of Joseph
7 Hunter," consisting of three pages and a supporting Declara-
8 tion for a total of four pages.

9 Trinity Exhibit 20 is the "Declaration of Flynn A.
10 Johnson," consisting of four pages and a supporting Declara-
11 tion for a total of five pages.

12 Trinity Exhibit 21 is a "Verified Statement of Cora
13 L. Lester." That's one page.

14 Trinity Exhibit 22 is the "Declaration of Louis S.
15 Martin," consisting of four pages with a supporting Declara-
16 tion for a total of five pages.

17 Trinity Exhibit 23 is the "Declaration of Larry J.
18 Massey," consisting of three pages with a supporting Declara-
19 tion for a total of four pages.

20 Trinity Exhibit 24 is the "Verified Statement of
21 Regina Murphy," consisting of one page.

22 Trinity Exhibit 25 is the "Declaration of Earl P.
23 Paulk," P A U L K, consisting of five pages with a supporting
24 Declaration for a total of six pages.

25 Exhibit No. 26 is the "Verified Statement of Marie

1 Ring," consisting of one page.

2 Trinity Exhibit 27 is the "Declaration of Gary L.
3 Smith," consisting of four pages with a supporting Declaration
4 for a total of five pages.

5 Trinity Exhibit 28 is the "Declaration of Canzetta
6 Staton Sussewell," consisting of four pages with a supporting
7 Declaration for a total of five pages.

8 Trinity Exhibit 29 is the "Declaration of Dr. Martin
9 Tingelhoff," consisting of four pages with a supporting
10 Declaration for a total of five pages.

11 And the Trinity Exhibit 30 is the "Verified State-
12 ment of Eric N. Westlake," consisting of one page.

13 And the proffered Trinity Exhibit No. 31 was ex-
14 changed. It's entitled, "Extraordinary Showing" and it con-
15 sists of five pages of argument and 400 Verified Statements
16 for a total length -- I believe it's 405 pages.

17 Proffered Trinity Exhibit 32 is the "Testimony of
18 Scott W. Jackson," consisting of 21 pages and a supporting
19 Declaration for 22 pages and includes Attachments A through F.

20 Proffered Trinity Exhibit No. 33 is the "Testimony
21 of Lindee C. Connelly," and consists of 10 pages with a
22 supporting Declaration for a total of 11 pages.

23 And that concludes, Your Honor, the proffered --
24 Trinity's proffered exhibits on renewal expectancy. Perhaps
25 in, in lieu of --

1 JUDGE CHACHKIN: Well, I just want to identify. The
2 documents described by counsel will be marked for identifica-
3 tion as Trinity Exhibits 1 through 36.

4 MR. DUNNE: Excuse me, Your Honor. I only marked --
5 only identified Exhibits 1 through 33.

6 JUDGE CHACHKIN: Through 33.

7 MR. DUNNE: The other three exhibits after these --

8 JUDGE CHACHKIN: All right.

9 MR. DUNNE: -- would be shortspacing exhibits.
10 Perhaps it would be easier if I just marked and identified
11 those as well.

12 JUDGE CHACHKIN: Yeah, why don't you. Yeah.

13 MR. DUNNE: Proffered Trinity Exhibit No. 34 is
14 entitled, "Testimony." It's the testimony of Randy Mullinax,
15 M U L L I N A X. It's two pages, verified, for a total of two
16 pages.

17 Proffered Trinity Exhibit 35 is the "Testimony of
18 Harvey Budd." It's two pages with exhibits A through C --
19 excuse me -- with Attachments A through C. The number of
20 pages of testimony are two.

21 Finally, proffered Trinity Exhibit No. 36 is the
22 "Declaration of Kevin T. Fisher." There's eight pages with a
23 supporting Declaration for a total of nine pages and includes
24 Attachments A through B.

25 We have also handed the court reporter what's entit-

1 led Joint Exhibit 1, which was the, the stipulated testimony
2 concerning TBN's diversity.

3 JUDGE CHACHKIN: All right. The documents described
4 by counsel will be marked for identification as Trinity
5 Exhibits 1 through 36. There's also a proffered exhibit which
6 consists of a stipulation.

7 (Whereupon, the documents referred to
8 as Trinity Exhibit Nos. 1 through 36
9 were marked for identification.)

10 JUDGE CHACHKIN: Stipulation Exhibit 1 dealing with
11 diversification of the interests of Trinity. That will also
12 be marked for identification.

13 (Whereupon, the document referred to
14 as Joint Exhibit No. 1 was marked for
15 identification.)

16 JUDGE CHACHKIN: All right. I guess we'll take them
17 up one at a time.

18 MR. DUNNE: Your Honor, at this proceeding, I would
19 offer for -- into evidence at this point what have been marked
20 and identified as Trinity Exhibits 1 through 36 and the Joint
21 Exhibit No. 1.

22 JUDGE CHACHKIN: All right. Are there any objec-
23 tions to Trinity Exhibit 1?

24 MR. SCHAUBLE: Yes, Your Honor. I object to the
25 entire exhibit on the basis of relevance and competence. If

1 you turn, Your Honor, to paragraph five on page 2, going on to
2 page 3, what Mr. Baehr purports to do here is describe certain
3 programs broadcast on the station and to, and to -- in para-
4 graph six he goes on to render his opinion as a viewer of
5 these programs.

6 No, no showing is made as to how often he watched
7 any of these programs. The only program he had any personal
8 involvement with was an entertainment movie review program
9 that was part of a music video program.

10 In the Miami proceeding, Your Honor ruled several
11 times that without a specific showing as to what programs the
12 individual watched, how often he watched, and when he watched
13 them, the witness was not competent to describe a program or
14 render an opinion concerning the station's programming. Your
15 Honor also ruled that, that this proceeding is not a populari-
16 ty contest and general opinions of viewers are not relevant.

17 And, so, I object to the entire exhibit on the basis
18 of both relevance and competence.

19 Also, Your Honor, part of the opinion Mr. Baehr
20 purports to offer is that this programming is, is wholesome,
21 which I believe is not a relevant criterion under renewal
22 expectancy. We're not getting into the wholesomeness or
23 decency of programming here, Your Honor. I therefore object
24 to the entire exhibit on this basis.

25 JUDGE CHACHKIN: What's the Bureau's view?

1 MR. ZAUNER: Your Honor, the Mass Media Bureau joins
2 in that objection for the reasons stated. The, the
3 Declaration does appear to go to the quality of the station's
4 entertainment programming.

5 MR. DUNNE: Your Honor, if I may be heard?

6 JUDGE CHACHKIN: Yes, Mr. Dunne.

7 MR. DUNNE: The witness, Your Honor, is not talking
8 about the, the general quality of the programming on -- broad-
9 cast on Channel 63. He's talking about very specific program-
10 ming, children's programming, which has a very specific role
11 in a renewal expectancy, and that's been confirmed in any
12 number of Commission cases and policy statements. He does --
13 he notes that he has watched -- he only proffers testimony on
14 three specific programs that he testifies that he has watched
15 and he describes the programming in terms that we can make an
16 evaluation of whether these programs contribute to the -- what
17 the Commission has described as the "positive cognitive
18 intellectual or social emotional development of the children."
19 He specifically describes in this testimony the, the events or
20 the things that he saw in those programs that go to that
21 specific issue, Your Honor. And I suspect whether he charac-
22 terizes programs as wholesome or not, he also describes the
23 programs in a way in which the Commission can evaluate whether
24 the Commission -- these programs again contribute to the, you
25 know, "positive...social emotional development of the

1 children." The fact that he, he also goes through great
2 length, roughly a page and a half, to establish his qualifica-
3 tions as a movie reviewer, producer of children's programming,
4 et cetera, that would give him the, the right to make that
5 evaluation.

6 And we, we contend that this is relevant and mate-
7 rial information under renewal expectancy, specifically di-
8 rected towards the station's obligation to provide programming
9 that's responsive -- that fosters the positive development of
10 children.

11 MR. SCHAUBLE: Your Honor, if I may respond?

12 JUDGE CHACHKIN: Yes.

13 MR. SCHAUBLE: The two problems here, in the Miami
14 proceeding Your Honor stated what was relevant was when -- is
15 a witness's personal involvement with a station's programming.
16 And except for this movie review, which we, we don't think is
17 relevant to the renewal expectancy, this witness had no
18 personal involvement. He was just a viewer of the program-
19 ming. And even if, if, if his opinion as a viewer is rele-
20 vant, there is no foundation here as to how many of these
21 programs he watched. There are just, there are just general
22 descriptions here, but I don't think the witness has described
23 his, his -- he doesn't say how many program-- of these pro-
24 grams he watched. All he says, "I did not watch every chil-
25 dren's program broadcast during the license term." I don't

1 think there is an adequate factual foundation here for the
2 witness to give his opinion, even assuming that the, the
3 opinion is relevant, which I don't think it, it is.

4 MR. DUNNE: Well, Your Honor, the -- WABZ and
5 Intercontinental Radio essentially said that the, the reaction
6 of viewers or listeners is relevant to evaluating a renewal
7 expectancy. In this particular instance we're --

8 JUDGE CHACHKIN: Now, wait a minute.

9 MR. DUNNE: -- talking about --

10 JUDGE CHACHKIN: Where did they say that?

11 MR. DUNNE: In, in WABZ and Intercontinental Radio,
12 Your Honor. They -- the -- in both cases the Review Board
13 looked at Commission letters or letters that were written
14 about the station that talked about things like: this station
15 is "responsive to the community." That's not an objective
16 fact. That's an opinion about the station's service to the
17 community, about what it does.

18 We're proffering this about a very specific portion
19 of the licensee's performance, which is children's program-
20 ming. He said: I watched the programs enough to describe
21 them these ways and make these findings.

22 MR. ZAUNER: Your --

23 MR. SCHAUBLE: Your Honor?

24 MR. ZAUNER: Your Honor?

25 JUDGE CHACHKIN: Yes, Mr. Zauner. Go ahead.

1 MR. ZAUNER: Your Honor, I think that, that what's
2 relevant in this proceeding would be programmings that --
3 programs that were designed to meet needs that were ascer-
4 tained, and there is no connection here between the program-
5 ming -- programs that are discussed in this exhibit and ascer-
6 tained needs. Moreover, this would not be the way to present
7 such information. Such information should be established by
8 the station records and there should be a showing that these
9 are the programs which the station relied on to meet certain
10 ascertained needs.

11 Instead, what we have here is statements by the
12 viewers of programs that they viewed and what their opinions
13 are of the programming. I don't find this to be really the
14 reliable evidence that we need to, to draw conclusions as to
15 the station's performance in meeting ascertained needs.

16 MR. DUNNE: Your Honor, I would agree with Mr.
17 Zauner with, with respect to the station's general
18 programming, that, that a showing of relevance with respect to
19 the station's ascertained needs is necessary with respect to
20 general programming. We're talking here specifically about
21 children's programming, and there's a Commission Rule that
22 talks about the station's obligation to provide programming
23 that's specifically for children and Policy Statements that
24 talk about the -- specifically what it is supposed to do,
25 i.e., promote the development of "positive cognitive

1 intellectual and social emotional development among children."
2 That's not specifically tied to an ascertainment of specific
3 children's needs. It's a description of the kind of
4 programming the Commission is asking or requiring stations to
5 provide, and this particular exhibit and others that follow,
6 specifically identify programs that are age-specific for
7 children and are designed to promote their social intellectual
8 and emotional cognitive development.

9 MR. SCHAUBLE: Your Honor?

10 JUDGE CHACHKIN: You don't suggest that -- I assume
11 you do have records here --

12 MR. DUNNE: Your Honor, the -- in --

13 JUDGE CHACHKIN: -- showing the station's program-
14 ming which you're putting in to show the special programming
15 and its regular program. I assume you have some evidence as
16 to that in this --

17 MR. DUNNE: Your Honor, in Trinity Exhibit 32, which
18 is Mr. Johnson -- or, excuse me, Scott Jackson's testimony,
19 there is -- the station's Programs Problems List are admitted
20 into evidence, which list the children's programs
21 specifically.

22 JUDGE CHACHKIN: And a description of the program?

23 MR. DUNNE: And a short description of the program.

24 JUDGE CHACHKIN: Well, then --

25 MR. DUNNE: Then, in Scott Jackson's testimony go

1 through great length about describing the program and when it
2 was broadcast during the license time.

3 JUDGE CHACHKIN: Well, doesn't that provide the
4 evidence as to the, the programming that the station present-
5 ed, children's program, what other kind of program you're
6 presenting?

7 MR. DUNNE: Yes, it does, Your Honor --

8 JUDGE CHACHKIN: How does --

9 MR. DUNNE: -- in a general --

10 JUDGE CHACHKIN: -- this advance the ball, the fact
11 that this particular viewer, whether he be a -- someone who,
12 who refused movies or not, his view of these programs? It
13 seemed to me then we're getting into quality, and the
14 Commission doesn't get into quality of programs. The
15 Commission gets into the -- looks at objective criteria,
16 namely what were the needs of the community and what did you
17 do to meet those needs, what program you presented to meet
18 those needs, rather than getting into subjective questions as
19 to the quality of the programming and -- that is not an area
20 in which the Commission gets into.

21 MR. DUNNE: No. Your Honor, it does not generally.

22 JUDGE CHACHKIN: And quite properly it doesn't get
23 into that.

24 MR. DUNNE: I'm talking specifically about chil-
25 dren's programming.

1 JUDGE CHACHKIN: Pardon me?

2 MR. DUNNE: And in children's programming it asks
3 specifically: we want programming that's age-specific. And
4 this, this testimony goes towards specifically what ages that
5 -- are -- view these programs, specifically teenagers. Okay?
6 And, secondly, with respect to children's programming, the
7 obligation is a little bit different. Instead of strictly
8 responding to "community needs," the Commission asks for
9 evidence that the licensee has broadcast programming respon-
10 sive to specific positive developments of social -- and I keep
11 repeating the same term, Your Honor, but it's essentially
12 what's been taken out of the Commission's Policy Statement.

13 JUDGE CHACHKIN: I understand that you do have
14 testimony by program persons who work at the station as to
15 what children's programs are presented. Isn't that correct?

16 MR. DUNNE: That's correct, Your Honor.

17 JUDGE CHACHKIN: Well --

18 MR. DUNNE: And that's been -- also been validated
19 or --

20 JUDGE CHACHKIN: I think that is the type of evi-
21 dence that the Commission looks at in determining whether or
22 not you meet the needs and interests, and in this case what
23 the Commission said there was a need to -- for children's
24 needs, then you have -- you've presented the programming in
25 the -- by the people who are qualified to, to describe the

1 programming, namely those who work at the station. I don't
2 think -- I don't understand what the purpose of this -- is
3 this supposed to enhance somehow --

4 MR. DUNNE: Yes, Your Honor.

5 JUDGE CHACHKIN: -- the showing as to children's
6 programming?

7 MR. DUNNE: Yes, Your Honor. It is --

8 JUDGE CHACHKIN: Why --

9 MR. DUNNE: -- it is --

10 JUDGE CHACHKIN: -- why --

11 MR. DUNNE: -- in its essence -- I have to admit
12 it's cumulative. It essentially backs up or elaborates on the
13 testimony of Mr. Jackson with respect to three of those
14 programs.

15 JUDGE CHACHKIN: Well, if there's no challenge to
16 Mr. Jackson's testimony as to the nature of the programming,
17 then I don't see any purpose of it. I'm not going to receive
18 the Declaration of Theodore Baehr. I don't think it's
19 relevant to, to the issues in this case. I'm not going to
20 receive it. We do have, as you pointed out, a description of
21 children's programming by station employees.

22 (Whereupon, the document marked for
23 identification as Trinity Exhibit
24 No. 1 was rejected.)

25 JUDGE CHACHKIN: All right. Two.